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February 1, 2019

Chief Alfonso Morales
Milwaukee Police Department
749 W. State Street
Milwaukee, WI 53233

Re: Critical incident involving the death of Antwon Springer

Dear Chief Morales:

This letter summarizes the conclusions of my office regarding the September 3, 2017, discharge of firearms by Officers Leon Burns and Daniel Tierney, which fatally wounded Milwaukee resident Antwon Springer. For the reasons indicated below, I find that Officer Burns and Tierney acted in accord with Wisconsin law and justifiably used deadly force in this incident.

During the night of Sunday, September 3, 2017, uniformed City of Milwaukee police officers responded to the residential neighborhood in the 4400 block of North 39th Street, for a large street fight involving numerous residents. Approximately two dozen people were in the street fighting when officers arrived, and objects such as sticks, bats and knives were reportedly used within the melee. As the officers attempted to intervene in the fight, a number of shots were fired by Antwon Springer from the front porch of his residence located at 4425 N. 39th Street. Officers Burns, Tierney, Lisa Bradley and Erik Nordstrom immediately ran toward Springer, drew weapons and repeatedly ordered Springer to drop his handgun. The officers stood closely to Springer as they shouted these commands to him. Springer appeared to stare directly at the officers while continuing to hold the firearm, and never dropped the firearm as ordered.

All four officers later indicated to investigators they believed their lives were in danger because Springer had already fired his gun, maintained possession of it, and did not drop it after receiving numerous direct commands to do so. Officer Burns specifically indicated that he perceived Springer to turn away from him

and to the left toward Tierney while staring at him and not dropping the gun. Burns feared Springer would fire at Tierney, and so he fired six shots at Springer.

Officer Tierney later indicated to investigators his concern that Springer did not drop the gun or attempt to flee after firing shots. The fact that Springer remained at the site, maintained possession of his firearm contrary to officers' orders, and looked directly at the officers confronting him, heightened Tierney's concern that Springer may choose to fire his handgun again. As a result, Tierney ultimately fired eight shots at Springer, simultaneously with the shots fired by Burns.

Springer suffered wounds to his neck, torso and midsection and died shortly thereafter. The firearm in Springer's possession was a Glock 9mm semi-automatic pistol.

Wisconsin Statutes Section 938.48(1) states as follows:

A person is privileged to threaten or intentionally use force against another for the purpose of preventing or terminating what the person reasonably believes to be an unlawful interference with his or her person by such other person. The actor may intentionally use only such force or threat thereof as the actor reasonably believes is necessary to prevent or terminate the interference. The actor may not intentionally use force which is intended or likely to cause death or great bodily harm unless the actor reasonably believes that such force is necessary to prevent imminent death or great bodily harm to himself or herself.

This is a two-part test, with subjective and objective components.

- 1) Did the officer have an actual subjective belief that deadly force was necessary to prevent imminent death or great bodily harm to himself or others?
- 2) Was that belief objectively reasonable?

See State v. Head, 2002 WI 99, 255 Wis. 2d 194, 648 N.W.2d 413.

The evidence in this case supports the use of deadly force by Officers Tierney and Burns. The evidence, including MPD body camera video, indicates that Springer was visibly armed with a firearm that he had just discharged numerous times into the air. Officers responded by approaching Springer and repeatedly ordered him to drop the firearm. Springer's conduct with the firearm and his failure to comply with officers' repeated commands to drop the firearm created a potentially dangerous situation for all parties at the scene. Tierney and Burns acted in a manner that was consistent with a belief that they were confronting an

armed individual with the ability to use deadly force who was refusing to drop his firearm. As such, the officers' use of force against Springer is lawfully permissible defense of self and others and therefore, justifiable.

Our office has concluded its review of this matter.

Sincerely,



Kent Lovern
Chief Deputy District Attorney

cc: Assistant Chief Steven Caballero
Captain Thomas Casper
Attorney Brendan Matthews
Attorney William Sulton
City of Wauwatosa Police Department